

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DEMETRIUS A. WRIGHT,

No. C 09-4358 CW (PR)

Plaintiff,

ORDER PROVIDING RAND SUMMARY
JUDGMENT NOTICE AND SETTING NEW
BRIEFING SCHEDULE

v.

A. HEDGEPEETH, et al.,

Defendants.

Plaintiff Demetrius A. Wright, a state prisoner incarcerated at Salinas Valley State Prison (SVSP), filed the above-titled pro se civil rights action pursuant to 42 U.S.C. § 1983 claiming the violation of his First Amendment rights. Defendants have filed a motion for summary judgment.

In its Order of Service, the Court, in accordance with the holding of Rand v. Rowland, 154 F.3d 952, 962-63 (9th Cir. 1998), explained to Plaintiff what he must do in order to oppose a motion for summary judgment. A recent decision from the Ninth Circuit, however, requires that pro se prisoner-plaintiffs be given "notice of what is required of them in order to oppose" summary judgment motions at the time of filing of the motions, rather than when the court orders service of process or otherwise before the motions are filed. Woods v. Carey, No. 09-15548, slip op. 7871, 7874 (9th Cir. July 6, 2012). Accordingly, the Court now provides the following notice to Plaintiff for his information in connection with Defendants' pending motion to dismiss and for summary judgment:

The defendants have made a motion for summary judgment by which they seek to have your case dismissed. A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

1 Rule 56 tells you what you must do in order to oppose a
2 motion for summary judgment. Generally, summary judgment must
3 be granted when there is no genuine issue of material fact --
4 that is, if there is no real dispute about any fact that would
5 affect the result of your case, the party who asked for
6 summary judgment is entitled to judgment as a matter of law,
7 which will end your case. When a party you are suing makes a
8 motion for summary judgment that is properly supported by
9 declarations (or other sworn testimony), you cannot simply
10 rely on what your complaint says. Instead, you must set out
11 specific facts in declarations, depositions, answers to
12 interrogatories, or authenticated documents, as provided in
13 Rule 56(e), that contradict the facts shown in the defendants'
14 declarations and documents and show that there is a genuine
15 issue of material fact for trial. If you do not submit your
16 own evidence in opposition, summary judgment, if appropriate,
17 may be entered against you. If summary judgment is granted,
18 your case will be dismissed and there will be no trial.

19 Rand v. Rowland, 154 F.3d 952, 962-63 (9th Cir. 1998).

20 Plaintiff's opposition to Defendants' motion for summary
21 judgment was due July 6, 2012. In order to allow Plaintiff time to
22 prepare his opposition to the pending motion for summary judgment
23 taking into account this Rand summary judgment notice, the Court
24 now sets the following new briefing schedule on Defendants' motion
25 for summary judgment: Plaintiff must file and serve his opposition
26 to the motion, or a supplemental opposition if he already has
27 mailed an opposition to Defendants and the Court, no later than
28 August 10, 2012. Defendants shall file and serve their reply no
later than August 24, 2012.

IT IS SO ORDERED.

Dated: July 11, 2012



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE